

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DENNIS NELSON,

Plaintiff,

-v.-

9:07-CV-1241
(TJM)(RFT)

ELIOT SPITZER; DAVID ROCK, Superintendent,
Great Meadow Correctional Facility; P. BRADY,
Correctional Officer, Great Meadow Correctional
Facility, BRIAN FISCHER; RICHARD POTTER;
J. GUMLOW; M. CLEVELAND; *et al.*,

Defendants.

APPEARANCES:

DENNIS NELSON
94-B-0694
Great Meadow Correctional Facility
Box 51
Comstock, New York 12821
Plaintiff, *pro se*

THOMAS J. MCAVOY, Senior United States District Judge

DECISION and ORDER

Plaintiff Dennis Nelson commenced this action by filing a *pro se* civil rights complaint, together with an *in forma pauperis* application. Dkt. Nos. 1, 2. A review of plaintiff's prior proceedings revealed that plaintiff had three "strikes" and, thus, should not be permitted to proceed with this action *in forma pauperis*.¹ See *Nelson v. Lee*, 9:05-CV-1096 (DEP)(NAM), Dkt. Nos. 44 and 47; *Nelson v. Hamel*, 9:07-CV-540 (GLS)(RFT), Dkt. No. 4; and *Nelson v. Conway*, No. 04-CV-6163CJS(Fe) (W.D.N.Y. Apr. 21, 2004)(referencing additional strikes in the Western District of

¹ Plaintiff had previously filed twenty-two other civil rights actions in this District. Several of plaintiff's filings relate to the medical condition of his leg. See *Nelson v. Lee, et al.*, 9:05-CV-1096 (NAM)(DEP); *Nelson v. Roberts*, 9:06-CV-0518 (GLS)(DRH); and *Nelson v. Smith, et al.*, 9:06-CV-0477 (GLS)(GHL).

New York).² Therefore, by Order of this Court filed January 28, 2008, plaintiff's *in forma pauperis* application was denied and plaintiff was directed to, **within thirty (30) days**, (1) prepay the \$350.00 filing fee in full **and** (2) file an amended complaint or his action would be dismissed. Dkt. No. 7. On February 8, 2008, plaintiff filed an amended complaint. Dkt. No. 10.

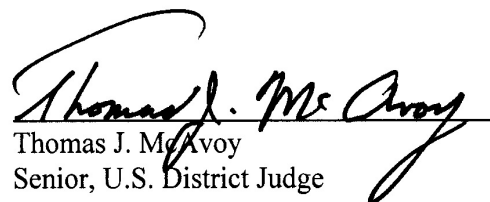
Although more than sixty days have elapsed since plaintiff was directed to prepay the \$350.00 filing fee, plaintiff has not paid the fee, nor has he requested an additional extension of time to do so. Therefore, in accordance with this Court's January 29, 2008 Decision and Order, this action is **dismissed without prejudice**.

WHEREFORE, it is hereby

ORDERED that for the reasons set forth above, this action is **dismissed without prejudice**, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Decision and Order on plaintiff in accordance with the Local Rules.

Date: April 7, 2008


Thomas J. McAvoy
Senior, U.S. District Judge

² As more fully discussed in the January 29, 2008 Decision and Order, the court also concluded that the claims raised by plaintiff in the present action do not fall within the "imminent danger" exception. See Dkt. No. 7.